

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

THE STATE DEPARTMENT OF EDUCATION
DID NOT COMPLY WITH ITS
FEDERAL FISCAL YEAR 1985-86 AGREEMENT WITH
THE ENVIRONMENTAL PROTECTION AGENCY
CONCERNING ASBESTOS IN SCHOOLS

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL

P-725

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CONCERNING ASBESTOS IN SCHOOLS

JULY 1987



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Thomas W. Hayes
Auditor General

July 28, 1987

P-725

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the State Department of Education's compliance with its federal fiscal year 1985-86 cooperative agreement with the Environmental Protection Agency to inspect school districts for compliance with federal regulations concerning asbestos in the schools. This audit was requested by Bill Honig, Superintendent of Public Instruction.

Respectfully submitted,

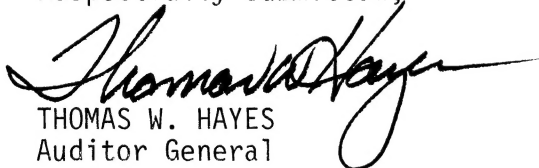

THOMAS W. HAYES
Auditor General

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SUMMARY

RESULTS IN BRIEF

The State did not comply with its cooperative agreement with the federal government for federal fiscal year 1985-86 to inspect 60 school districts for compliance with the federal regulations concerning asbestos in schools. This cooperative agreement was administered by the State Department of Education (SDE). In our review, we noted the following conditions:

- The SDE failed to identify violations at all seven school districts reinspected jointly by our office and the United States Environmental Protection Agency (EPA) and;
- The SDE failed to obtain spending authority from the Department of Finance before conducting EPA inspections that cost the State at least \$40,000.

BACKGROUND

From 1946 to 1972, asbestos materials were used extensively in the construction and renovation of school buildings for fireproofing, insulation, acoustical purposes, and decoration. In many school buildings, these materials are now damaged as a result of deterioration, abrasion, water leakage, or forced air circulation; this damage causes the release of "friable" asbestos fibers into the air. Material is friable when it can be crumbled, pulverized, or reduced to powder by hand pressure when dry. Exposure to asbestos in the air poses serious health threats, particularly to children.

In 1982, the EPA issued regulations to address the problem of asbestos in schools and required all school districts to inspect schools for the presence of friable asbestos by June 28, 1983. On November 26, 1985, the EPA approved a grant for the SDE to conduct inspections of 60 school

districts in California to monitor their compliance with the federal regulations on asbestos. From January 1986 through August 1986, the SDE inspected schools in 61 school districts. One SDE inspector conducted all of the inspections.

On October 27, 1986, the EPA submitted its final report to the SDE on the 1985-86 cooperative agreement. The report stated that California satisfied the requirements of the agreement. However, the EPA reinspected 18 school districts to determine if the SDE's inspections were properly conducted. Our office accompanied the EPA inspector on 7 of these inspections. None of these 7 school districts complied with federal regulations. According to the EPA's asbestos coordinator, 10 (91 percent) of the remaining 11 school districts they reinspected were also out of compliance with federal regulations.

The EPA has taken administrative action against three school districts that did not comply with the federal regulations. Also, the EPA's inspector general is conducting a criminal investigation of the SDE's inspector; according to the assistant division inspector general, the criminal investigation will be completed by August 1987.

PRINCIPAL FINDINGS

The State Department of Education Did Not Identify Violations of Federal Regulations

The State did not comply with its 1985-86 cooperative agreement with the EPA to inspect school districts for compliance with the federal regulations concerning asbestos in the schools. Under the cooperative agreement, the SDE inspected 61 school districts and found that only 7 (11 percent) of the districts did not comply with the federal regulations. However, EPA inspectors determined a noncompliance rate of 77 percent in other school districts in California.

Our office and the EPA jointly reinspected 7 school districts that the SDE had previously inspected and found in compliance with federal regulations. We found that none of the 7 school districts complied with the federal regulations. For example, the SDE's inspector did not identify recordkeeping violations by school districts and either directed or encouraged some school officials to sign backdated documents indicating that the school districts had complied with the federal regulations. Furthermore, the SDE's inspector did not report finding potentially hazardous friable material at any of these school districts. As of July 10, 1987, the EPA had not reviewed these inspection reports for possible enforcement action.

Because the SDE's inspector did not identify violations of the federal regulations, school officials were not informed of the potentially hazardous friable materials in their schools and, therefore, could not take the action necessary to reduce potential risks to human health from exposure to asbestos. Additionally, the EPA was prevented from taking immediate enforcement action against school districts that did not comply with the regulations. Moreover, because parents, students, and school employees were not notified that asbestos was found in their schools, they could not take precautions to limit their exposure to asbestos.

The State Department of Education
Inappropriately Spent State Funds
To Conduct Inspections for the
Environmental Protection Agency

The SDE did not obtain authority from the Department of Finance to spend federal funds to inspect school districts for the EPA to determine whether the schools complied with federal regulations concerning asbestos. On November 26, 1985, the EPA approved a grant for the SDE to conduct inspections at 60 school districts in California. According to the grant, the EPA would provide up to \$75,000, and the State would provide up to \$25,000 to conduct these inspections. The SDE's inspector visited 61 school districts from January 1986

through August 1986. The Department of Finance did not approve the SDE's request for funding these inspections because the Department of Finance believed that the asbestos inspections would duplicate work performed by the Department of Industrial Relations. Furthermore, the SDE did not provide the Department of Finance with a plan for spending the federal monies or a plan detailing how staff would accomplish required tasks. We estimate that the SDE inappropriately spent at least \$40,000 from the School Facilities Account to conduct inspections for the EPA.

RECOMMENDATIONS

The State Department of Education should take the following actions:

- Ensure that, in the future, its staff comply with the requirements set forth in cooperative agreements by adequately monitoring and supervising staff activities;
- Cooperate with the EPA's reinspection of school districts and with the investigation of the EPA's inspector general to ensure that school officials and parents are properly notified that asbestos may be present in their schools; and
- Obtain the proper authority to spend funds before starting work on a project.

AGENCY COMMENTS

The State Department of Education concurs with our recommendations and is taking immediate action to correct the problems we have identified.

INTRODUCTION

From 1946 to 1972, asbestos materials were used extensively in the construction and renovation of school buildings for fireproofing, insulation, acoustical purposes, and decoration. In many school buildings, these materials are now damaged or "friable" as a result of deterioration, abrasion, water leakage, or forced air circulation, and asbestos fibers have been released into the air. Material is considered friable when it can be crumbled, pulverized, or reduced to powder by hand pressure when dry.

Exposure to asbestos in the air poses serious health threats, particularly to children. Asbestos is the only known cause of mesothelioma, a painful and fatal cancer of the lining of the lungs or stomach. Asbestos is also the cause of other disabilities, including asbestosis, a scarring of the lungs that progressively hinders the victim's ability to breathe. Since children generally have higher metabolic rates than adults, the United States Environmental Protection Agency (EPA) estimates that a child exposed to asbestos between the ages of 5 and 10 has at least ten times the risk of developing mesothelioma as does an adult exposed to the same level of asbestos between the ages of 35 and 40.

In 1982, the EPA issued Part 763, Subpart F of Title 40 of the Code of Federal Regulations (federal regulations) known as the Friable Asbestos-Containing Materials in Schools regulation. The purpose of

this regulation is to reduce risks to human health from exposure to asbestos-containing materials in school buildings. The federal regulations require local education agencies (school districts) to inspect all school buildings for friable material. If friable material is found, school districts must take samples and analyze them for asbestos. If the friable material contains asbestos, school districts must notify parents and employees of ways to minimize exposure to the asbestos. Parents may be notified either directly or through a parent-teacher association. Also, school districts must maintain records at each school that show evidence of their compliance with the federal regulations.

During the federal fiscal year 1984-85, the State Department of Education (SDE) entered into a cooperative agreement with the EPA to conduct inspections of 120 elementary school districts in California to monitor their compliance with the federal regulations on asbestos. The EPA authorized \$150,000, and the State provided \$50,000 to fund the inspections of these districts. The SDE completed inspections of 121 school districts.

On November 26, 1985, the EPA approved a second grant for the SDE to conduct inspections of an additional 60 school districts in California during the federal fiscal year 1985-86. According to this grant, the EPA would provide up to \$75,000, and the SDE would provide up to \$25,000 to fund the inspections. From January 1986 through August 1986, the SDE inspected 61 school districts.

On October 27, 1986, the EPA submitted to the SDE its final report on the cooperative agreement for federal fiscal year 1985-86. According to this report, the State satisfied the requirements of the agreement. However, according to the EPA's asbestos coordinator, when the EPA made quality-control reinspections of 11 of the 61 school districts inspected by the SDE, the EPA found that 10 (91 percent) of the school districts did not comply with federal regulations. The EPA has taken administrative action against three school districts that did not comply with the federal regulations. Moreover, the Inspector General's Office of the EPA is conducting a criminal investigation of the SDE's inspector. According to the assistant division inspector general in the Inspector General's Office, the investigation is expected to be completed in August 1987.

SCOPE AND METHODOLOGY

The purpose of this audit was to determine whether the SDE complied with the cooperative agreement it made with the EPA for federal fiscal year 1985-86 concerning asbestos in schools. We reviewed applicable sections of the Toxic Substance Control Act, the Code of Federal Regulations, and the performance requirements of the cooperative agreement. We reviewed EPA enforcement policies and procedures, the EPA inspection manual, and other pertinent guidelines. We also interviewed officials of the SDE, the school districts, the EPA, and the Department of Finance. The SDE's inspector, who personally conducted all of the inspections, responded through his

legal counsel to our questions concerning the differences in the findings of his inspection reports and our joint EPA reinspections of the same school districts.

To determine whether the SDE adequately performed its inspections of school districts, we accompanied an EPA inspector on reinspections of 7 school districts and 22 schools within these districts. We independently verified each school district's compliance with the federal regulations on friable asbestos-containing materials in schools. During the reinspections, we reviewed the schools' records on asbestos to verify their accuracy and completeness. We also walked through school buildings to determine if friable asbestos was present. Furthermore, we interviewed the school district officials and maintenance staff who escorted the SDE's inspector on his initial inspection. We compared the findings in the SDE's inspection reports with the results of our reinspection of the 7 school districts.

To determine whether appropriate expenditures were charged to the EPA grant for federal fiscal year 1985-86, we reviewed the account to which the SDE charged personnel and travel expenditures for conducting inspections in 1986. We also reviewed the timesheets, travel claims, and supporting documentation submitted by the SDE's inspector from January 1, 1986, through August 31, 1986.

The travel expenditures were generally accurate and complete. However, the SDE's inspector was reimbursed \$390.58 for travel

expenses, including lodging, meals, and incidental costs, to which he was not entitled. We have recommended that the SDE seek reimbursement for the \$390.58 in travel reimbursements made to the SDE's inspector.

AUDIT RESULTS

I

THE STATE DEPARTMENT OF EDUCATION DID NOT IDENTIFY VIOLATIONS OF THE FEDERAL REGULATIONS CONCERNING ASBESTOS IN SCHOOLS

The State did not comply with its cooperative agreement with the United States Environmental Protection Agency (EPA) for federal fiscal year 1985-86 to inspect school districts for compliance with the federal regulations concerning asbestos in schools. Our office and the EPA jointly reinspected seven school districts that the State Department of Education (SDE) had previously inspected and reported in compliance with federal regulations. However, none of the seven districts we reinspected complied with the federal regulations. We found that the SDE's inspector did not identify recordkeeping violations by school districts and encouraged some school officials to sign documents that were backdated. Additionally, the SDE's inspector did not report the location of potentially hazardous friable material. According to the EPA inspector who conducted the reinspections, the conditions we found at the schools existed before the SDE's inspection.

Because the SDE's inspector did not report violations of the federal regulations, school officials and the EPA were not informed of the potentially hazardous situations at these schools and, therefore, could not take the actions necessary to reduce potential risks to human health. Moreover, because parents, students, and school employees were

not notified when asbestos was present in these schools, they could not take precautions to limit their exposure to asbestos.

Terms and Results of the Cooperative Agreement

The SDE entered into a cooperative agreement with the EPA for federal fiscal year 1985-86 to inspect 60 school districts to determine if they were complying with federal regulations concerning asbestos in schools. The agreement required the SDE to examine school districts' records of past compliance activities, to conduct a walk-through inspection of school buildings to verify the records, and to report its findings to the EPA. The EPA provided training to the SDE's inspector on how to properly conduct school district inspections.

Under the cooperative agreement, the SDE inspected 61 school districts and found that only 7 (11 percent) of the districts did not comply with the federal regulation. This rate of noncompliance was very different from the 77 percent noncompliance rate that EPA inspectors found at other school districts in California. Furthermore, EPA inspectors in Arizona found that approximately 79 percent of the school districts they inspected did not comply with the federal regulations.

The EPA's Region IX project officer, who is responsible for monitoring the 1985-86 cooperative agreement, first questioned the SDE's low noncompliance rate on April 4, 1986. The EPA's project

officer and the chief of its Toxic Section held a conference call with the SDE's inspector to discuss the EPA's concern that, of the inspections conducted to date, violations were reported in only two school districts, and these were minor recordkeeping violations. At this time, the EPA asked if the low noncompliance rate occurred because the SDE sent the school districts information packets on how to come into compliance with the regulations and because the SDE gave the school districts up to three months' advance notice of the inspections. In April and July 1986, a senior inspector from the EPA accompanied the SDE's inspector on two inspections to ensure that the SDE's inspector used proper techniques and procedures, to provide the SDE's inspector with additional training if needed, and to evaluate the quality of the SDE's inspections. On October 15, 1986, the EPA's senior inspector recommended to the EPA's grant project officer that at least 20 percent of the school districts inspected by the SDE be reinspected to confirm the SDE's inspection reports.

The EPA reinspected 18 school districts to determine if the SDE's inspections were properly conducted. Our office accompanied the EPA inspector on 7 of these reinspections. None of these 7 school districts complied with the federal regulations. Additionally, according to the asbestos coordinator, the EPA found that 10 (91 percent) of the remaining 11 school districts they reinspected were out of compliance with the federal regulations.

The SDE Did Not Report
Recordkeeping Violations

Title 40 of the Code of Federal Regulations requires that school districts maintain in the administrative office of each school a record that includes the name and address of the school and a list of all buildings associated with the school. The list is to indicate whether each building has been inspected for friable materials and which buildings contain friable materials. If friable materials containing asbestos are found in school buildings, the records must include copies of the notices to school employees informing them where asbestos is located in the school. The records at the school must also clearly specify the locations of friable material containing asbestos, an estimate of the percent of asbestos in the material, and a copy of all laboratory reports and all correspondence with laboratories concerning the analysis of asbestos samples. The school is also required to maintain copies of EPA guidelines that outline ways to reduce exposure to asbestos and a statement that the requirements of the federal regulations have been satisfied.

Additional records must be retained in the school district's administrative office. These records must include a list of all schools under the school district's authority and must indicate which schools were inspected and which contain friable materials. The school district's records must also show that samples of friable materials were analyzed, and the records must specify which materials contain asbestos. For each school where friable, asbestos-containing materials

have been identified, the school district must record the total square footage of the material and the total number of school employees who regularly work in the school.

Furthermore, Section 763.115 of the Code of Federal Regulations states that failure to comply with any aspect of the regulations is a violation of the Toxic Substance Control Act. The EPA considers falsification of information concerning compliance with the regulations a violation. Additionally, if a violation is knowingly or willfully perpetrated, criminal penalties may be assessed.

At the 7 school districts we reinspected with the EPA, the SDE's inspector did not report recordkeeping violations of the federal regulations. The SDE's inspector submitted reports to the EPA that stated that records were available at the school districts when, in fact, they were not. The SDE's inspector reported that he found the appropriate school inspection records at each of the 22 schools we reinspected in the 7 school districts. However, our review revealed that inspection records were available at only 2 of the 22 schools.

Furthermore, according to school officials we interviewed, in 4 of the 7 school districts, the SDE's inspector either directed or encouraged them to sign documents indicating that inspections for asbestos had been conducted before June 28, 1983, as the federal regulations required. For example, school officials told us that the SDE's inspector typed statements that were backdated or directed school

secretaries to type backdated statements for school officials to sign. These school officials said they signed the documents because the inspector told them that the school must have these records on file "to be in compliance" with the federal regulations. Instead of reporting the lack of documentation at these districts, the SDE's inspector attached the falsified documents to the reports he submitted to the EPA as evidence of the school districts' compliance with the federal regulations.

We asked the SDE's inspector whether he directed or encouraged school officials to sign documents verifying that inspections for asbestos had been conducted before June 28, 1983. Our specific question was, "During your inspections of school districts, did you ever direct or encourage any school employee or school official to fill out or prepare school records or documents that school districts are required to maintain by the federal regulation?" The SDE inspector's response to this question, through his attorney, was "Yes, in the case of some records and supporting documentation, based upon the advice and direction provided by EPA staff at Region IX, some EPA-required documents were prepared on site at the time of the inspection and they were reported as such in the EPA report." We also asked, "Did you ever prepare, yourself, any school records or documents that school districts are required to maintain by the federal regulation?" The SDE inspector's response to this question, through his attorney, was the same as his response to our previous question.

The SDE Did Not Report
Finding Friable Material

Section 763.105 of Title 40 of the Code of Federal Regulations requires school districts to inspect each school building it leases, owns, or otherwise uses as a school building to locate all friable material. This inspection must include looking for and touching all suspicious materials, including surfaces behind suspended ceilings or other nonpermanent structures that school employees must enter to perform normal building maintenance or repairs.

The EPA Inspection Manual requires that inspectors make a thorough "walk-through" inspection of all areas of school buildings to verify that the information in school records regarding the location of friable materials is accurate and complete. If friable material is found that was not identified in the school records, the inspector is to estimate its extent, map its location, photograph the area, and ask the school official to explain why the material has not been abated. The inspection report provides a space for the inspector to indicate whether, during the walk-through inspection, friable material was found that was previously unnoticed by the school district.

In our joint review with an EPA inspector of 22 schools in 7 school districts, we found material that was friable in all but one of the schools. However, the SDE's inspector had not reported finding friable material in any of the 22 schools. For example, we found deteriorated insulation around pipes and boilers in areas where school

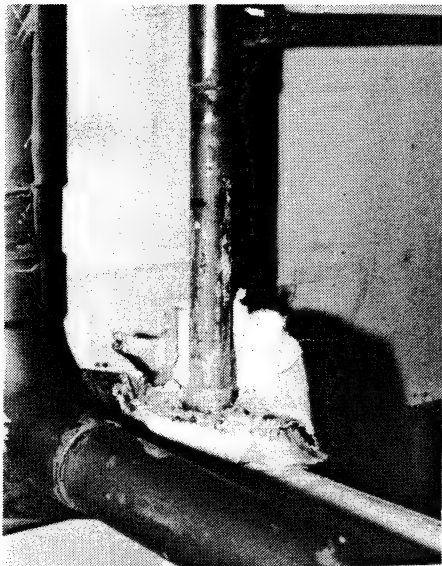


Figure 1: Friable material in maintenance area of a school building

employees must perform routine maintenance and repair. At one junior high school, we found large pieces of insulation material that had fallen from a water tank and were lying on the ground near a playground area. In one high school, we found more than 25 areas where seriously damaged or deteriorated pipe insulation was present. In most of these areas, the friable material was located in gym hallways and exercise areas where students frequently gather.

According to a maintenance director who escorted the SDE's inspector at the high school, the SDE's inspector told him to wrap and cover the exposed areas with duct tape and not to be concerned about it. Also, the EPA inspector that we accompanied on the school district reinspections stated that, in his opinion, many of the conditions that we found existed before the SDE's inspection.

The SDE's inspector stated, through his attorney, that the walk-through inspection of a school for friable material is not intended

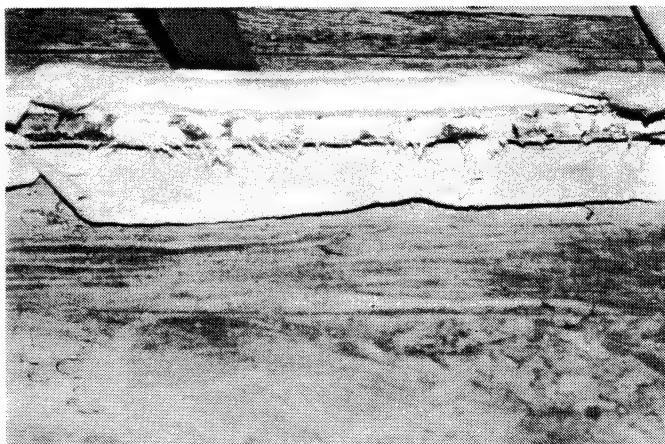


Figure 2: Friable material in maintenance area of a school building

to be "comprehensive and definitive"; it is an inspection of representative portions of a particular school, as the EPA directs. The SDE's inspector further stated that, during a walk-through, he would make a "visual inspection" of locations where friable material had either been identified or abated by the school district. These locations generally included boiler rooms, mechanical rooms, and nearby structures. To determine the friability of materials, the SDE's inspector applied what he believed to be normal hand pressure.

The former director of the SDE's School Facilities, Organization and Transportation Division stated that there was a substantial increase in the workload for the division during 1986 and that he wanted the individual who was performing the federal asbestos inspections to complete his inspections as rapidly as possible and help with other division work. The former division director also stated that this individual had performed asbestos inspections under the previous EPA agreement and was left in charge of administering the 1985-86 agreement. The former division director did not monitor the asbestos inspections to ensure that they were conducted according to federal requirements. According to the former division director, one of the functions of the division is to assist schools in coming into compliance with the federal regulations concerning asbestos in the schools.

Because the SDE's inspector did not report violations of the federal regulations, school officials were not informed of the

potentially hazardous friable materials in their schools and could not take the actions necessary to reduce potential risks to human health from exposure to asbestos. Additionally, the EPA could not take immediate enforcement action against the school districts that did not comply with the regulation concerning asbestos in the schools. Moreover, because parents, students, and school employees did not receive proper notice, they could not take precautions to limit their exposure to asbestos.

CONCLUSION

The State Department of Education did not comply with its cooperative agreement with the Environmental Protection Agency for federal fiscal year 1985-86 to inspect state school districts for compliance with the federal regulations concerning asbestos in schools. For example, the SDE's inspector did not report recordkeeping violations by school districts and encouraged some school officials to sign and backdate documents indicating that inspections for asbestos had been conducted before June 28, 1983, as required by the regulations. Additionally, the SDE's inspector did not report the location of potentially hazardous friable material. Because the SDE's inspector did not report violations of the federal regulations, school officials and the EPA were not informed of potentially hazardous situations and could not take the actions necessary to reduce potential risks to human

health. Moreover, because parents, students, and school employees did not receive proper notice, they could not take precautions to limit their exposure to asbestos.

RECOMMENDATIONS

To avoid future problems of this nature, the State Department of Education should monitor and supervise its staff adequately to ensure that it complies with the requirements of cooperative agreements.

The SDE should cooperate with the EPA's reinspections of school districts and the EPA inspector general's investigation to ensure that school officials and parents are properly notified that asbestos may be present in their schools.

The SDE should coordinate any future reinspections of the 61 school districts for friable asbestos with the EPA.

II

THE STATE DEPARTMENT OF EDUCATION DID NOT OBTAIN SPENDING AUTHORITY BEFORE CONDUCTING FEDERAL INSPECTIONS

On November 26, 1985, the EPA approved a cooperative agreement for the SDE to conduct compliance inspections at 60 school districts in California. According to the agreement, the EPA would provide up to \$75,000, and the State would provide up to \$25,000 to conduct these inspections. From January 1986 through August 1986, the SDE inspected 61 school districts. However, the SDE failed to obtain approval from the Department of Finance to spend the money necessary to conduct these inspections. The Department of Finance did not approve the SDE's request for funding these inspections because it believed the inspections would duplicate similar work performed by the Department of Industrial Relations. Also, the SDE did not provide the Department of Finance with plans for spending federal monies and for staffing the inspection program. As a result, the SDE spent at least \$40,000 of state funds to conduct inspections for the EPA.

Section 13326 of the Government Code and Section 6238 of the State Administrative Manual require that every state agency, when preparing budgets to be submitted to the federal government for funds, first submit the budget to the Department of Finance, which may approve, disapprove, modify, or amend the budget before it is submitted to the proper federal agency.

The SDE did not obtain authority from the Department of Finance for spending federal monies for inspections to determine whether schools comply with the federal regulations concerning asbestos in the schools. On November 26, 1985, the EPA approved the cooperative agreement for federal fiscal year 1985-86 and provided a letter of credit to the SDE for subsequent payments. Under this agreement, the EPA was required to provide up to \$75,000, and the State was required to provide up to \$25,000 to conduct these inspections. From January 1986 through August 1986, the SDE inspected 61 school districts under the cooperative agreement. As of June 15, 1987, the SDE used at least \$40,000 from the School Facilities Account to conduct these inspections.

The Department of Finance did not approve the SDE's budget revision for the cooperative agreement for federal fiscal year 1985-86 because the State provides funding to the Department of Industrial Relations to perform asbestos inspections in schools. In addition, the SDE did not provide the Department of Finance with a plan for spending these funds nor a plan for using staff to accomplish the inspections.

Under the terms of the cooperative agreement with the EPA, the SDE is required to provide state matching funds of up to \$25,000. However, since the Department of Finance did not approve the agreement, the SDE did not have the authority to spend either federal funds or state funds to conduct inspection work for the EPA. Therefore, the SDE inappropriately spent at least \$40,000 from the School Facilities

Account to perform inspection work for the EPA. Moreover, according to the chief of the EPA's Region IX Grants Administration Section, because the SDE did not properly fulfill its financial obligation, the EPA could withdraw its letter of credit to the SDE. As of June 15, 1987, according to the grant specialist for Region IX, the State had made no charges to the federal letter of credit for conducting inspections at 61 school districts.

CONCLUSION

The State Department of Education did not obtain the authority to spend federal funds for inspections to determine if school districts comply with federal regulations concerning asbestos in schools. From January 1986 through August 1986, the SDE inspected 61 school districts. However, the SDE failed to obtain approval from the Department of Finance to conduct these inspections. As a result, the SDE inappropriately spent at least \$40,000 of state funds to conduct inspections for the EPA.

RECOMMENDATION

We recommend that the State Department of Education obtain the proper authority to spend funds before it starts work on a project.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

Date: July 27, 1987

Staff: Robert E. Christophel, Audit Manager
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CALIFORNIA STATE DEPARTMENT OF EDUCATION

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Bill Honig**Superintendent****of Public Instruction**

July 20, 1987

Mr. Thomas Hayes
Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

This is in response to your July 15 letter regarding your review of the Department of Education's 1986 Asbestos Inspection Agreement with the Environmental Protection Agency.

As you will recall, in a March 17, 1987 letter, Superintendent Honig requested the State Auditor General's assistance in reviewing the Department of Education's performance under the 1986 Asbestos-In-Schools compliance monitoring agreement with the United States Environmental Protection Agency (EPA). Your office responded positively to our request in a letter dated April 28, 1987, and an entrance conference was held on May 6, 1987.

Your assistance was requested because we believed your office could provide accurate, impartial information regarding the quality of our work performed under the 1986 agreement. You have fulfilled that request. While we are disappointed that the findings indicate the work performed under the 1986 agreement was substandard, we appreciate the thorough, impartial review that you have provided. Your report will help ensure that appropriate corrective action is taken regarding this matter.

The actions we have taken, or will take are enumerated below:

1. On July 10, 1987, Superintendent Honig personally contacted the Environmental Protection Agency (EPA) Region IX administrator to strongly urge EPA to complete reinspection of all schools inspected by the State Department of Education in 1986 prior to the time students and staff return to school in September 1987. In addition, on July 15, 1987, in a State Senate Education Committee the Department supported Assembly Bill 2509 which makes an appropriation from the State's Asbestos Abatement Fund for the Department of Industrial Relations to contract with certified asbestos inspectors to reinspect any schools that may not be reinspected by EPA.

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2. A letter (attached) will be sent immediately to the Superintendent of each school district not yet reinspected by EPA. The letter will state that the Department of Education has received information indicating that some of the schools inspected in 1986 which were reported as being free from friable material may contain friable material. The letter will further state that the Department of Education has requested EPA to reinspect the schools inspected in 1986 with the goal of completing the inspections prior to students returning to school in the fall.
3. The one staff person who conducted the 1986 reviews was placed on administrative leave effective June 29, 1987 pending receipt of the State Auditor General's report. Management will pursue further appropriate action based on the findings and recommendations in your report.
4. The Department will seek reimbursement for the \$390.58 in inappropriate travel claims filed by the department inspector and will closely monitor any future claims.
5. In July, 1987, as part of the Department's request for EPA to complete reinspection of the schools in question, we provided assurances to EPA that we would not draw down on the \$75,000 federal letter of credit provided by the 1986 agreement since the results of the State Auditor General's Office review reflected that the State Department of Education did not comply with the provisions of that agreement. A dialogue has begun with the State Department of Finance to ensure appropriate accounting of the Department's activities and expenditures during the period in question. The Department agrees with your recommendation that it obtain proper authority to spend funds prior to initiating a project. As you know in this case, the Department of Finance had given verbal assurances that the Budget Revision authorizing the expenditure of federal funds would be signed as soon as additional information was provided. Although verbal approval is not technically "proper authorization", as a practical matter many projects would never be accomplished if work did not commence until the paperwork is complete. In this case, there was a potential health hazard to children that at the time seemed to require expedient action.

We would like to request that the following additions or clarifications be made in your final report:

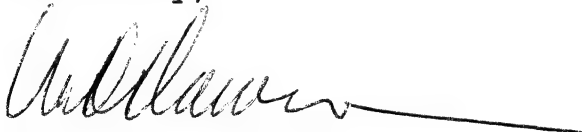
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1. On page 1, as part of the introduction, we would appreciate your acknowledgement that the Superintendent was proactive, and in March, 1987, requested the involvement of the State Auditor General as soon as we were aware of EPA's concerns regarding our performance under the 1986 agreement.
2. The title page of your draft report uses the phrase "did not comply with its 1985-86 agreement." As you know, the Department of Education had a 1985 asbestos inspection agreement with EPA which is not in question. To avoid any confusion regarding the contract which was reviewed, could you avoid reference to 1985, or on the title page use the same term used on page S-1 of the report, "federal fiscal year 1985-86."
3. In the first line of page 15 you properly identify the subject of your paragraph as the "former director" of the Division. However, in subsequent references in that paragraph you use the term division director. To ensure that proper identifications are conveyed, please include the word "former" throughout that paragraph.*

We are very appreciative of the high quality of work performed by your staff in addressing this issue. As stated above, your positive response to our request for assistance in reviewing this issue helps ensure that the appropriate corrective actions will be taken.

If you have any questions regarding our response, please contact Duwayne Brooks at 322-2470.

Sincerely,

A handwritten signature in dark ink, appearing to read 'William D. Dawson', with a long horizontal line extending to the right.

William D. Dawson
Executive Deputy Superintendent
State Department of Education

*Auditor General Comment: Text changed.



CALIFORNIA STATE DEPARTMENT OF EDUCATION

721 Capitol Mall; P.O. Box 944272

Sacramento, CA 94244-2720

Bill Honig

Superintendent

of Public Instruction

July 22, 1987

Frederick L. Good, Jr.
Superintendent
Val Verde Elementary
School District
2935 Indian Avenue
Perris, CA 92370

Dear Mr. Good:

In 1986, the State Department of Education, under agreement with the Environmental Protection Agency, monitored compliance with the Federal Asbestos-In-Schools Law in 61 elementary school districts in California. An essential part of that monitoring effort involved a physical inspection of school buildings for the presence of friable materials (material that may be crumbled by hand pressure).

Recently we have received information indicating that some of the schools inspected in 1986 which were reported as being free from friable material may in fact contain friable substances. As you know, the existence of friable material poses a serious health hazard to students and others occupying such facilities.

We are very concerned about the health and safety of students and individuals utilizing our school facilities. Therefore, we have requested that the Environmental Protection Agency reinspect your schools on the attached list. Contingent upon obtaining the necessary funding, EPA will attempt to reinspect the above schools prior to students returning to school this fall. A representative from EPA may be in contact with you soon.

I appreciate your cooperation in this effort to ensure a safe and healthy school environment for our students, staff, and parents. If you have any questions, please contact me.

Sincerely,

Duwayne Brooks

Duwayne Brooks, Interim Director
School Facilities Planning Division
(916) 322-2470

cc: EPA, Region IX, San Francisco

1. Val Verde Elementary School District
Val Verde
Mead Valley
2. Temecula Union Elementary School District
Temecula
Vail
3. Hermosa Beach City Elementary School District
Hermosa View
Hermosa Valley
North Elementary
4. Wasco Union Elementary School District
Clemmons & Special Handicapped Facilities on Campus
Palm Avenue
Thomas Jefferson
5. Thermalito Union Elementary School District
Sierra Avenue
Poplar
Nelson
6. Saratoga Union Elementary School District
Redwood
Saratoga
Foothill
Argonaut
7. Belmont Elementary School District
Central
Fox
Nesbit
Ralston
8. Etiwanda Elementary School District
East Avenue (Special Education School)
Summit Avenue
Etiwanda Intermediate
9. Cucamonga Elementary School District
Cucamonga
Los Amigos
Guasti
I. M. Bernt
Rancho
10. Valley Center Union Elementary School District
Valley Center Middle
Valley Center Elementary

11. Pleasant Ridge Elementary School District
Pleasant Ridge Elementary
Cottage Hill
Magnolia Intermediate
12. Farmersville Elementary School District
Snowden
Hester
Farmersville Junior High
13. Exeter Union Elementary School District
Lincoln
Wilson
14. Armona Union Elementary School District
Armona
Armona-Parkview
15. Orcutt Union Elementary School District
Orcutt Junior High
Alice Shaw
Dunlap
16. San Juan Union Elementary School District
San Juan
17. Gonzales Union Elementary School District
Fairview
La Gloria
18. Live Oak Elementary School District
Del Mar
Green Acres
Live Oak
19. Placerville Union Elementary School District
Edwin Markham
Louisiana
Sierra
20. Rio Elementary School District
Rio Del Valle
Rio Real
Rio Plaza
21. Oxnard Elementary School District
Driffill
McKinna
Harrington

22. Ocean View Elementary School District
Ocean View Junior High
Laguna Vista
Mar Vista
Terra Vista
23. Orland Joint Elementary School District
Mill Street
Fairview
C. K. Price
24. Orland Joint Union High School District
Orland High School
25. Antelope Elementary School District
Antelope
Berrendos
26. Yreka Union Elementary School District
Gold Street Elementary
Evergreen Elementary
Yreka Elementary
27. Moreland Elementary School District
Rogers Middle
Latimor
Easterbrook
28. Redwood City Elementary School District
Garfield
McKinley
Franklin
29. Dos Palos Joint Elementary School District
Dos Palos Elementary
Bryant Elementary
George Christian
30. Empire Union Elementary School District
Empire Elementary
Teel Middle
Sipherd Elementary
Capistrano Elementary

31. Panama Union Elementary School District
Stine
Panama
Seibert
32. Saugus Union Elementary School District
Cedar Creek
Honby
Sky Blue
33. Sulphur Springs Union Elementary School District
Soledad Canyon
Sulphur Springs
Mint Canyon
34. Cambrian Elementary School District
Fammatre
Price Middle
Sartorrette
35. Ravenswood City Elementary School District
Brentwood Oaks
Costano
Ravenswood Middle
Willow Oaks
36. Los Altos Elementary School District
Covington
Almond
Egan
37. Mountain View Elementary School District
Graham
Slater
Castro
38. Newhall Elementary School District
Wiley Canyon
Newhall
Old Orchard
39. Westside Union Elementary School District
Joe Walker Junior High
Quartz Hil
Valley View
Leona Valley
40. Keppel Union Elementary School District
Almondale
Alpine
Antelope



CALIFORNIA STATE DEPARTMENT OF EDUCATION

721 Capitol Mall; P.O. Box 944272

Sacramento, CA 94244-2720

Bill Honig

Superintendent

of Public Instruction

July 17, 1987

Mr. Richard Vaille
United States Environmental
Protection Agency
Region IX
215 Fremont Street
San Francisco, CA 94105

Dear Mr. Vaille:

This will confirm your conversation with Bill Honig on July 10, 1987, regarding the need to reinspect schools inspected by the State Department of Education under a 1986 agreement with your agency.

We have recently received confirming information indicating that a number of schools we inspected in 1986 which were reported as being free from friable material may in fact contain friable material. Since we are concerned about the health and safety of the students, staff, and public utilizing those school facilities, we agreed that the schools in question should be reinspected immediately.

As of July 10, 1987, your staff had already reinspected schools in approximately 20 of the 61 districts involved in our 1986 agreement. We agreed that it would be most appropriate for your staff to conduct the remaining reinspections with the goal of completing the reinspections prior to the beginning of the 1987-88 school year.

Since we had not requested federal reimbursement for our activities under the 1986 agreement we confirmed that we would not subsequently seek federal reimbursement for those activities.

We appreciate your efforts in achieving our mutually desired result. If we can be of any assistance in facilitating or expediting the reinspections please contact me.

Sincerely,

Duwayne Brooks

Duwayne Brooks, Interim Director
School Facilities Planning Division
(916) 322-2470



July 22, 1987

Thomas W. Hayes
Auditor General
State of California
660 J Street - Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

This is in response to your letter of July 15, 1987 requesting comments on the draft copy of your report entitled "The State Department of Education Did Not Comply With Its 1985-86 Agreement With The Environmental Protection Agency Concerning Asbestos-In-Schools."

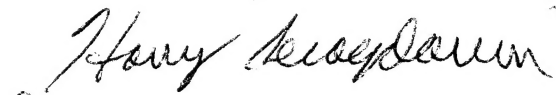
We would like to respond to comments made by the SDE inspector on page 12 of the draft report regarding the preparation of documents. There are several points we would like to make:

- 1) EPA accepts only the preparation of certification statements at the time of inspection and only when the school is in compliance with the Asbestos-In-Schools Rule in all other respects. The documents must be dated as of the inspection date and notation of the document preparation must be made in the inspection report.
- 2) The SDE inspector received training and instruction covering those specific documents and situations. As an example, this training and instruction was given to the SDE inspector by an EPA inspector during an overview inspection of Bennett Valley Union School District in Santa Rosa on April 10, 1986.

- 3) Inspection reports prepared by the SDE inspector after training indicate that EPA instruction was not followed. For example, reports on inspections conducted at Sylvan Union School District on June 25, 1986 and at Los Gatos Elementary School District on July 23, 1986 indicate that documents were back dated and that preparation of the documents was not noted in the SDE inspector's report.

We appreciate the opportunity to provide clarification on these issues.

Sincerely,


81 JUDITH E. AYRES
Regional Administrator

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps